



**OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN**

**GERALD C. MANN**  
ATTORNEY GENERAL

Honorable Dan W. Jackson  
District Attorney  
Houston, Texas

Dear Sir:

Opinion No. 0-5202

Re: Is Senate Bill No. 126, Chapter 109, Acts of the 48th Legislature, repealed by House Bill No. 520, Chapter 316, Acts of the 48th Legislature? And question relating thereto.

In your letter of June 30, quoted in part below, you requested the opinion of this department upon two related questions:

"(1) Is Senate Bill No. 126, Chapter 109, Acts of the 48th Legislature, repealed by House Bill No. 520, Chapter 316, Acts of the 48th Legislature, regular session?"

"(2) Assuming that there is no repeal, will Senate Bill No. 126 control in determining whether or not property belongs 'exclusively to the United States' within the exemptions granted by House Bill No. 520?"

We are of the opinion that H. B. No. 520 does not repeal the prior act, Senate Bill No. 126 of the same Legislature, the 48th. Certainly, there is no express language in the House Bill repealing the Senate Bill, and repeal by implication is not favored. The accepted rule is clearly expressed in 39 Texas Jur., Sec. 75, page 140, in the following language:

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"According to numerous pronouncements of the Texas courts, the repeal of statutes by implication is never favored or presumed. The two acts will persist unless the conflicting provisions are so antagonistic and repugnant that both cannot stand. Where there is no express repeal, the presumption is that in enacting a new law the Legislature intended the old statute to remain in operation."

The multitude of authorities cited in the text support the rule.

Another rule of even greater force is that where both acts are passed by the same session of the legislature, it will be presumed that the legislature intended for both acts to stand. For a statement of the rule see 39 Tex. Jur., Sec. 78, page 146, stated in the following language:

". . . The Legislature is supposed to be governed by one spirit and policy during a session, and nothing short of a direct repeal in express terms, or such irreconcilable repugnancy as that both acts cannot stand together, will justify a court in holding an act is repealed by another act passed at the same session. . . ."

You are, therefore, advised that it is our view that S. B. No. 126 is not repealed by H. B. No. 520.

Passing now to the effect of these two bills, we enclose herewith copies of two opinions of this department recently released, opinion No. 0-5290, passing upon the constitutionality of these two bills, and opinion No. 0-5363, upon the liability of land held in the name of the United States for State and county ad valorem taxes. We believe that these two opinions afford a sufficient guide for your office without further discussion.

Yours very truly

APPROVED JUL 17, 1943

*Gerard B. Mann*

ATTORNEY GENERAL OF TEXAS

ATTORNEY GENERAL OF TEXAS

By

*D. P. Lollar*  
D. P. Lollar  
Assistant

LPL:AMM

ENCLOSURES

